

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE GRANT, et al.,

Plaintiffs,

Case No. 1:22-cv-186

v.

Hon. Hala Y. Jarbou

UNITED STATES OF AMERICA, et al.,

Defendants.

ORDER

In accordance with the opinion entered this date:

IT IS ORDERED that the report and recommendation (“R&R”) of the magistrate judge (ECF No. 162) is **APPROVED** and **ADOPTED** in full as the opinion of the Court.

IT IS FURTHER ORDERED that the Rule 12(b)(1) motion to dismiss by Defendants United States, the U.S. Environmental Protection Agency (“EPA”), Reagan, and Shore (ECF No. 92) is **GRANTED**. Accordingly, Defendants Reagan and Shore in their official capacities, as well as Defendants United States and the EPA, are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that the Rule 12(b)(2) motion to dismiss by Defendants Reagan and Shore (ECF No. 91) is **GRANTED**. Accordingly, Defendants Reagan and Shore, in their individual capacities, are **DISMISSED WITHOUT PREJUDICE** for lack of personal jurisdiction.

IT IS FURTHER ORDERED that the Rule 12(b)(1) motion to dismiss by Defendants Whitmer, Clark, Oswald, Gordon, Hertel, Michigan Department of Environment, Great Lakes, and

Energy (“EGLE”), and Michigan Department of Health and Human Services (“MDHHS”) (collectively, the “State Defendants”) (ECF No. 95) is **DENIED**.

IT IS FURTHER ORDERED that the Rule 12(b)(6) motion to dismiss by the State Defendants (ECF No. 97) is **GRANTED**. Accordingly, the federal claims against Defendants Whitmer, Clark, Oswald, Gordon, Hertel, EGLE, and MDHHS are **DISMISSED**.

IT IS FURTHER ORDERED that the motions to dismiss by Defendants Elhorn Engineering Company (“Elhorn”), F&V Operations and Resource Management, Inc. (“F&V”), and Abonmarche Consultants, Inc. (“Abonmarche”) (ECF Nos. 85, 88, 128) are **GRANTED**. Accordingly, the federal claims against Elhorn, F&V, and Abonmarche are **DISMISSED** for failure to state a claim.

IT IS FURTHER ORDERED that the motion to dismiss based on qualified immunity by Defendants Muhammad, O’Malley, Mitchell, Watson, the City of Benton Harbor, and the Benton Harbor Water Department (collectively, the “City Defendants”) (ECF No. 98) is **DENIED**.

IT IS FURTHER ORDERED that the Rule 12(b)(6) motion to dismiss by the City Defendants (ECF No. 102) is **GRANTED**. Accordingly, the federal claims against Defendants Muhammad, O’Malley, Mitchell, Watson, the City of Benton Harbor, and the Benton Harbor Water Department are **DISMISSED** for failure to state a claim.

IT IS FURTHER ORDERED that all remaining claims arising under state law are **DISMISSED WITHOUT PREJUDICE** because the Court declines to exercise supplemental jurisdiction over them.

In light of the foregoing, all claims have been dismissed. Because no claims remain, the Court will enter a judgment dismissing the case.

Dated: September 28, 2023

/s/ Hala Y. Jarbou

HALA Y. JARBOU

CHIEF UNITED STATES DISTRICT JUDGE